

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 10/643,881
Applicant(s): Robert James Vimini et al.
Filed: August 20, 2003
Title: PACKAGING AND COOKING BAG AND METHOD FOR PACKAGING AND
PREPARING A MEAT PRODUCT
T.C./A.U.: 1761
Examiner: Adepeju Omolola Pearse
Confirmation No.: 5224
Docket No.: PDF-104US

DECLARATION OF ROBERT JAMES VIMINI

Commissioner for Patents
P.O. Box 1450
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Sir:

I, Dr. Robert James Vimini, hereby declare that:

1. I am Principle Scientist of Perdue Farms, Inc. I am an inventor of the invention claimed in the above-referenced patent application. I have worked for Perdue Farms, Inc. since February, 1998.

2. I received my undergraduate degree in Animal Science from the University of Connecticut, my masters degree in Food Science from the University of Wyoming, and was awarded my doctorate degree from the University of Kentucky in Food Science. My doctoral thesis was a study of *Muscle and Fat Cell Development in Meat Animals*.

3. I have read the Final Office Action dated 25 April 2006. I have also read the primary prior art reference cited in the Office Action, namely, U.S. Patent Application No. 2004/0121054 to Berrier et al.

4. I note paragraphs [0117] and [0133] of Berrier et al. describe a comparative film commercially available from Reynolds Metal Products sold under the

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Reynolds® Oven Bags trademark. A (best available) copy, obtained from an Information Disclosure Statement ("IDS") submitted in the Berrier et al. application, of the product description for the Reynolds® Oven Bags was submitted to the Patent Office in an IDS on 24 February 2006 in the present application. Berrier et al. characterizes the composition of the Reynolds® Oven Bag as a monolayer film believed to consist of a blend of about 40% nylon-6 and 60% nylon-6,6. I have found nothing in my review of an actual Reynolds® Oven Bag product that leads me to believe that the characterization of it by Berrier et al. is incorrect.

5. I have evaluated the Reynolds® Oven Bag and compared it to an exemplary embodiment of a bag made from a monolayer film comprising at least 90% nylon-6,6, according to the present invention (the "Claimed Bag"). Because of the similarity in the composition of the film of the Reynolds® Oven Bag and the Claimed Bag (i.e., only a 30% difference in the amount of nylon-6,6 in their compositions), I expected that their performance would be similar. I found that the Reynolds® Oven Bag adhered to the turkey breast meat during its removal; and to my surprise and quite unexpectedly, the Claimed Bag did not adhere to the turkey breast meat during its removal. I also observed that the Claimed Bag did not balloon to the same extent as the Reynolds® Oven Bag during cooking.

6. To test the Reynolds® Oven Bag against the Claimed Bag, a raw, boneless, skin-on turkey breast was placed in each bag. The turkey breasts were then frozen. The Reynolds® Oven Bag and the Claimed Bag were similar in appearance, opacity, feel of thickness or gauge of the bag film in their frozen state. Directly from their frozen state, the bags were each placed into a conventional oven set at a temperature of 350°F and cooked for 4 hours. Neither the side seals nor the end seals of either the Reynolds® Oven Bag or the Claimed Bag ruptured during cooking.

7. Attached Figure 1 shows the Reynolds® Oven Bag identified at left, and a Claimed Bag at right. As can be seen, both turkeys browned to a nice roasted appearance. There were no discernable color differences between the turkeys. There was no meat/skin adhesion to either bag on the top of the turkey breast.

8. At the bottom of the Reynolds® Oven Bag, however, some turkey meat adhered to the Reynolds® Oven Bag. Surprisingly, no meat adhesion was observed in the Claimed Bag. See Figures 2 and 3 for the Reynolds® Oven Bag and the Claimed Bag,

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respectively. The separated meat shown in Figure 3 is not due to meat adhering to the bag, but instead is due to natural separations of portions of the turkey breast from other portions that occur within the breast the upon cooking. I ran these comparative tests several times; the results, as shown in the attached figures and described herein, were typical.

9. In addition, I observed that the Reynolds® Oven Bag ballooned during cooking and formed a gap of about 6 inches between the top surface of the turkey and the bag. I also observed that the Claimed Bag ballooned during cooking, and interestingly, the Claimed Bag formed an unexpectedly smaller gap between the top surface of the turkey and the bag: a gap of about 3 to 4 inches. Figure 4 shows the ballooning of the Reynolds® Oven Bag. Figure 5 shows the ballooning of the Claimed Bag.

10. Based upon the performance of the Claimed Bag compared to the Reynolds® Oven Bag (i.e., the presence/absence of meat adhesion and the degree of ballooning), and noting the primary difference in the bags to be a 30 % difference in nylon-6,6, I have concluded that the Claimed Bag has unexpectedly superior properties over the Reynolds® Oven Bag.

11. I hereby declare that all statements made herein are of my own knowledge and are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful and false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful and false statements may jeopardize the validity of the above-identified application or any patent issued thereon.

Respectfully submitted,

Robert J. Vimini
Dr. Robert James Vimini

7/14/06
Date